

period,⁸³ while Southwestern shows a sharp increase in year 2000 followed by an equally sharp decrease in year 2001.⁸⁴ The reasonableness of PacBell's and Southwestern's assumptions are not apparent and warrant further explanation.

The tariffing BOCs also made different assumptions concerning CMRS use of their query services. Ameritech and Bell Atlantic assumed that CMRS providers would make extensive use of their query services, at least through 1999.⁸⁵ Conversely, PacBell and Southwestern assumed that they would handle only 60% of all queries generated on behalf of CMRS providers.⁸⁶

The assumptions made by PacBell and Southwestern warrant further explanation. Assuming that the PacBell and Southwestern CMRS affiliates will use the query services of their landline company and assuming further that these CMRS affiliates have a 40% share of their respective markets, the PacBell/Southwestern assumption would mean that they would handle only one-third of all queries required by non-affiliated CMRS providers. This does not appear to be a reasonable assumption — particularly during the time that CMRS are technically incapable of generating their own queries.⁸⁷

⁸³ See PacBell D&J, Exhibit DEM-1.

⁸⁴ See Southwestern D&J, Exhibit DEM-1.

⁸⁵ See Ameritech Direct Case at 10; Bell Atlantic Direct Case at 6 n.12. However, Ameritech's projections of CMRS prearranged and default queries does not appear to be reasonable. Ameritech assumes that 95% of all CMRS queries will be default queries while only 5% of all CMRS queries will be prearranged. *Id.* at 5. Ameritech thus assumes that its own CMRS affiliate will not enter into query arrangement with its own affiliate.

⁸⁶ See PacBell/Southwestern Response, Appendix B at 3 and 6.

⁸⁷ For the same reason, AirTouch does not believe it is reasonable to assume, particularly
(continued...)

B. Incumbent LECs Should Be Required to Adjust Their Query Services Annually to Reflect Actual Usage

As noted, estimating demand for a new service necessarily involves a large degree of guess work. Given the volatility of the market coupled with the fact that erroneous demand estimates can lead to substantial LEC over-recovery, AirTouch recommends that preliminary estimates be replaced with reasonable forecasts as soon as historical data becomes available. Specifically, AirTouch asks the Commission to require all incumbent LECs to adjust their query service rates annually to reflect the most recent, actual usage of their query services. Such an annual adjustment will help ensure that no LEC over-recovers (or under-recovers) its legitimate costs incurred in the provision of query service. Such an approach will certainly ensure that the prices for query services will reflect more closely the actual costs of providing the capability — especially compared to the alternative of allowing LECs to charge over a period of several years a price based solely on their “best guess” of initial demand.⁸⁸

V. Additional Terms and Conditions in the BOC Query Tariffs Are Unreasonable

Some additional terms and conditions in the BOC query tariffs appear to be unlawful, as AirTouch demonstrates below.

⁸⁷

(...continued)

over the next year or so, that 25% of all CMRS-related queries will be database-only queries. *See id.*

⁸⁸

The wide variation in the future demand estimates by each BOC confirms the need to replace LEC initial estimates with historical data as soon as practicable.

A. It Is Unreasonable For Incumbent LECs to Assess Query Charges for Queries That Are Unnecessary for Call Routing

Three of the tariffing BOCs — Bell Atlantic, PacBell, and Southwestern — propose to generate queries and to assess query charges in instances where, as the Commission has noted, they do “not have a need to do so to correctly route calls.”⁸⁹ The Commission should declare that the practice of billing for unnecessary queries is unreasonable and unlawful.

Under the LRN method of number portability, database queries are required only if the call is destined to an NXX where at least one number within the NXX has been ported; calls to NXXs without any ported numbers do not require a query to complete the calls correctly. Nevertheless, the three tariffing BOCs proposed to generate queries on any NXX “designated as number portable” — including NXXs *without any ported numbers*.⁹⁰ In short, these three BOCs have, in their own words, decided to perform and bill for “billions of unnecessary database queries.”⁹¹ The three tariffing BOCs advance numerous reasons why they should be allowed to bill for queries which are unnecessary for call routing. None of these reasons has merit, however.

The most baseless argument is advanced by PacBell and Southwestern, which assert that the Commission “has required” and “clearly stated” and incumbent LECs have “the

⁸⁹ *Designation Order* at 8 ¶ 14. In contrast, Ameritech appears to assess query charges only for those queries necessary for call routing. *See id.* at 8 n.48.

⁹⁰ *See* Bell Atlantic Transmittal 1041, Tariff § 13.3.16(C)(1); PacBell Transmittal 1973, Tariff § 13.3.16(A); Southwestern Transmittal 2694, Tariff § 34.1.

⁹¹ *See* PacBell Petition for Clarification or, in the Alternative, Reconsideration, CC Docket No. 95-116, at 2 (Aug. 26, 1998). In this regard, it is disingenuous for Bell Atlantic to state that it “charges carriers only for database queries it actually performs.” Bell Atlantic Direct Case at 7. The issue is whether Bell Atlantic should be permitted to charge for queries that are *unnecessary* for call routing purposes or whether, like Ameritech, it should bill only for queries needed for call processing.

right to bill” for unnecessary queries.⁹² In fact, the Commission has never addressed the question whether incumbent LECs have a “right to bill” for queries that they admit are “unnecessary” for call routing. Indeed, had the Commission made this determination as these BOCs contend, it would have been unnecessary for the Commission to include this very issue as part of the pending tariff investigation.⁹³

Bell Atlantic asserts that it is “most efficient *for Bell Atlantic*” to generate queries on all NXXs where number portability is available, rather than to limit queries only to those NXXs with ported numbers.⁹⁴ According to Bell Atlantic, the five-day window provided by the industry standard (to implement a ported number order) is an insufficient amount of time for it to perform the necessary translations work.⁹⁵

AirTouch does not object to a carrier deciding to do work in advance, including the early translation of number portability NXXs and the subsequent generation of unnecessary queries. AirTouch’s objection is limited to *paying* for queries that are unnecessary for call routing; in effect, it and other interconnecting carriers are being penalized because the incumbent LEC decided, unilaterally, to perform its work in advance. Importantly, and overlooked by the tariffing BOCs, an incumbent LEC’s decision to generate queries prematurely for its own efficiency has the result of forcing every other carrier serving the same area to generate the same

⁹² PacBell/Southwestern Response at 24 and 26. *See also id.* at 19-20.

⁹³ *See Designation Order* at 8-9 ¶ 14.

⁹⁴ Bell Atlantic Direct Case at 7 (emphasis added).

⁹⁵ *See id.* at 7-8. *See also* PacBell/Southwestern Response at 22 (“[F]ive days is not adequate to perform the processes required to activate querying in multiple switches.”). Given the five-day window the industry standard provides to implement a ported number order, PacBell’s and Southwestern’s reference to the LERG process, used to open new NXX codes altogether, is irrelevant. *See id.* at 20-21.

unnecessary queries as well.⁹⁶ Thus, the unilateral decision of an incumbent LEC has the practical effect of imposing unnecessary costs on all carriers — solely because an incumbent LEC has decided that it is more efficient *for it* to operate in this fashion.

Bell Atlantic next asserts that it would have to increase its per query charge “by at least 40%” if it generated queries only on NXXs with ported numbers. This unsupported assertion is not credible. Bell Atlantic and the other tariffing BOCs (other than Ameritech) have told that Commission that carriers would pay “big bucks” if they had to perform unnecessary queries.⁹⁷ Now Bell Atlantic takes just the opposite position, claiming that carriers instead would pay “big bucks” if it does not perform unnecessary queries. Besides, as PacBell and Southwestern have documented, query charges would increase by only modest sums (1.2% to 1.4%) if they billed only for necessary queries — although the price increases quoted by PacBell and Southwestern appear highly suspect.⁹⁸

⁹⁶ If Bell Atlantic and other incumbent LECs are permitted to bill for unnecessary queries, other carriers must then perform the same unnecessary queries to calls directed to the same NXX codes because if they fail to do so, the incumbent LEC will perform a default query on these call attempts and then bill them for these queries. Either way, interconnecting carriers pay more than they need to pay because of a unilateral decision made by the incumbent LEC.

⁹⁷ See Bell Atlantic Reply in Support of Its Petition for Clarification and Partial Reconsideration, CC Docket No. 95-116, at 6 (Oct. 10, 1996). See also PacBell Reply Comments, CC Docket No. 95-116, at 8 (Oct. 10, 1996) (PacBell would realize “real cost savings” if it could avoid generating unnecessary queries); Southwestern Reply Comments, CC Docket No. 95-116, at 3 (Oct. 10, 1996) (avoiding unnecessary queries “will reduce costs”).

⁹⁸ See PacBell/Southwestern Response, Appendix C. It appears that much of this projected increase is due to changes to certain PacBell and Southwestern billing and OSS systems. See *id.* at 25 and Appendix C, Notes 1 and 2. It is not apparent why interconnecting carriers should be required to fund these changes when it was these incumbent LECs which made the unilateral “business decision” to charge for queries unnecessary for call routing. *Id.* at 26.

PacBell and Southwestern finally state their practice of billing for unnecessary queries was caused by CLECs, which supposedly “have required that ILEC [*sic*] be able to port the first number within a NXX within five days.”⁹⁹ It is AirTouch’s understanding that the five-day interval was developed following industry consensus, not imposed unilaterally by competitive LECs. In any event, even if this complaint about competitive LECs had merit, this reason would not provide any basis for penalizing CMRS providers by charging them for unnecessary queries.

In the end, the decision to bill for unnecessary queries is a “business decision,” as PacBell and Southwestern readily concede.¹⁰⁰ The business decision made by Bell Atlantic, PacBell and Southwestern to bill for unnecessary queries is unreasonable. In their own words, performing and billing for unnecessary queries is “offensive.”¹⁰¹ AirTouch agrees.

B. Competitive Carriers Should Not Be Required to Submit Future Traffic Estimates to Incumbent LECs

The Commission seeks comment about the reasonableness of Ameritech’s practice of requiring interconnecting carriers to provide rolling, three-month estimates of the volume of traffic they intend to deliver at each Ameritech switch.¹⁰² At the outset, the Commission should be aware that other BOCs (including PacBell and U S WEST) seek the same detailed information — although, unlike Ameritech, they have not included their requirement in their tariffs.

⁹⁹ PacBell/Southwestern Response at 23. *See also id.* at 26 (claiming that CLECs had “a lack of planning”).

¹⁰⁰ PacBell/Southwestern Response at 26.

¹⁰¹ *See PacBell Reply Comments*, CC Docket No. 95-116, at 9 (Oct. 10, 1998).

¹⁰² *See Designation Order* at 8 ¶ 13.

Only Ameritech even attempts to justify this practice, and it expends considerable effort in establishing the unassailable position that network planning is necessary to maintain network reliability.¹⁰³ The defect with this argument is that Ameritech's practice does *not* solve the problem it identifies; in fact, Ameritech does not even identify a problem requiring a solution.

The crux of Ameritech's argument is that it needs interconnecting carriers with which it competes to submit "detailed forecasts" so it can size its network accordingly.¹⁰⁴ However, Ameritech seeks traffic forecasts only from "carriers who arrange in advance for [it] to perform queries on their behalf."¹⁰⁵ It does not seek the same forecasts from carriers where Ameritech will be performing default queries — which, according to Ameritech's own estimates, will constitute 43% of all the queries Ameritech will perform on behalf of other carriers.¹⁰⁶ Receiving traffic forecasts about some interconnected traffic (even assuming the estimates later prove accurate) hardly gives Ameritech the information it claims to need to correctly size its network to handle all interconnected traffic. More fundamentally, receiving traffic forecasts about some interconnected traffic hardly gives Ameritech the information it needs to size its entire network — when, according to Ameritech, approximately 85% of all traffic (and number portability queries) will be originated by its own customers.¹⁰⁷ Thus, Ameritech would have the

¹⁰³ See Ameritech Direct Case at 13-18.

¹⁰⁴ *Id.* at 13. According to Ameritech, traffic forecasts with less detail will have no value. See *id.* at 14.

¹⁰⁵ Ameritech Transmittal No. 1149, Tariff § 5.2, 10th Revised Page 90.

¹⁰⁶ See Ameritech D&J at 5.

¹⁰⁷ See Ameritech Direct Case, CC Docket No. 98-14, at 15 (Feb. 13, 1996).

Commission believe that it is essential for it to obtain “detailed forecasts” concerning 7% of its traffic load so it can properly size its entire network.

The fact is that Ameritech does not need competing carriers to correctly size its network — as evidenced by the fact that its tariffs have never required such forecasts in the past and that the absence of these forecasts has not hindered Ameritech’s ability to appropriately size its network.¹⁰⁸ The further fact is that Ameritech’s own data gives Ameritech the very information it seeks from competing carriers.¹⁰⁹ (This is true of other incumbent LECs as well.)

Traffic forecasts represent highly competitively sensitive information, as the Commission has acknowledged.¹¹⁰ Neither Ameritech nor any other tariffing BOC has demonstrated a need for competitive carriers to divulge this sensitive information to them. The Commission should therefore preclude all incumbent LECs from imposing this requirement on CMRS providers.

¹⁰⁸ PacBell’s demand for the same data is especially baffling given its statement that it has “expertise in forecasting and efficient network management” and that its network engineers “have many years of experience forecasting growth in our call processing network and in our SS7 network.” PacBell Reply Comments, CC Docket No. 95-116, at 9 (Oct. 10, 1996).

¹⁰⁹ Each month Ameritech collects interconnected traffic data from each of its switches to generate access bills for IXCs and terminating compensation bills for CMRS providers and competitive LECs. Thus, Ameritech has very precise historical data from which its network planners can make judgments about future traffic volumes. Ameritech would have the Commission believe that it will make decisions about its network growth based on the traffic estimates of competitors as opposed to the estimates of its own network planners.

¹¹⁰ See *Designation Order* at 8 ¶ 13. Indeed, given Ameritech’s estimate that 95% of all CMRS queries will be default queries, see Ameritech D&J at 5, apparently Ameritech’s own CMRS affiliate is unwilling to provide its “detailed forecasts” to its landline company.

C. Ameritech Should Be Directed to Remove Its “At a Minimum” Language

Ameritech states that its number portability databases “[a]t a minimum . . . contain the Location Routing Number (LRN) which identifies the Local Service Provider’s (LSP) switch serving each ported end user.”¹¹¹ Ameritech’s inclusion of the phrase, “at a minimum,” suggests that it may be using, or have plans to use, its number portability databases for other purposes (*e.g.*, the provision of other, non-number portability call enhancement features). If this is the case, Ameritech should allocate the cost of these databases with the other services for which the same hardware and/or software is being used. Accordingly, AirTouch requests that the Commission direct Ameritech either to remove this phrase or to specify the other uses of its number portability databases (and the manner in which such costs have been allocated).

Conclusion

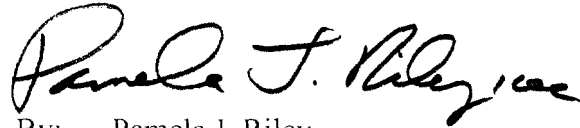
For the foregoing reasons, the Commission should reject the Ameritech, Bell Atlantic, Pacific Bell and Southwestern Bell query service tariffs under investigation in this

¹¹¹ Ameritech Transmittal 1149, Tariff § 6.4.2(A). *See also* Ameritech D&J at 3 (“At a minimum, the database contains the LRN which identifies the Local Service Providers (LSPs) with serving each ported end user.”).

proceeding and prescribe new interim rates subject to the Commission's completion of its supplemental investigation concerning the allocation of joint costs.

Respectfully submitted,

AIRTOUCH COMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Pamela J. Riley, esq.", written in a cursive style.

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July 10, 1998

CERTIFICATE OF SERVICE

I, Jo-Ann G. Monroe, hereby certify that on this 10th day of July, 1998, I caused copies of the foregoing Opposition to be served by first class U.S. mail, postage prepaid, to the following:

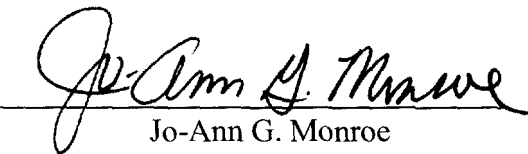
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